UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:18-cv-00113-RJC

JAMES LEE PRICE,)
Plaintiff,))
v.)
COMMISSIONER OF SOCIAL SECURITY,) <u>Order</u>)
Defendant.)
	<i>)</i>)

THIS MATTER comes before the Court on Plaintiff's motion for attorney's fee under 28 U.S.C. § 2412, the Equal Access to Justice Act (Doc. No. 20), related Stipulation for Payment (Doc. No. 23), and Motion for Attorney's Fees under 42 U.S.C. § 406(b), the Social Security Act (Doc. No. 25).

By consent of the parties, the Court will grant the Plaintiff's motion for attorney's fees under 28 U.S.C. § 2412, the Equal Access to Justice Act. (Doc. No. 20). The Social Security Administration shall pay \$5,090.00 in attorney fees to the Plaintiff in full settlement and satisfaction of any and all claims for attorney fees for legal services rendered under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). In accordance with *Astrue v. Ratliff*, 560 U.S. 586, 130 S. Ct. 2521 (2010), the Commissioner will determine whether Plaintiff owes a debt to the United States. If so, the debt will be satisfied first and, if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the Department of the Treasury reports to the Commissioner that the Plaintiff does not owe a federal debt, the government will exercise its discretion and honor the assignment of EAJA fees and pay the awarded fees directly to Plaintiff's counsel.

With respect to Plaintiff's Motion for Attorney's Fees under 42 U.S.C. § 406(b), the Social

Security Act (Doc. No. 25), Plaintiff contends that he is entitled to attorney's fees in the amount

of \$23,090.50, which represents less than 25% of Plaintiff's accrued back benefits, to be paid from

Plaintiff's back benefits pursuant to section 406(b) of the Social Security Act. 42 U.S.C. § 406(b).

Defendant filed a "Neutral 406(b) Response" in which it stated that it "neither supports nor

opposes" the motion. (Doc. No. 26). The Court has reviewed the Motion and supporting exhibits

and finds that Plaintiff has established that he is entitled to attorney's fees pursuant to 42 U.S.C. §

406(b). For the reasons outlined in Plaintiff's Motion, the Court will grant the Plaintiff's Motion

for Attorney's Fees under 42 U.S.C. § 406(b). (Doc. No. 25).

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Attorney's Fees under 28

U.S.C. § 2412 (Doc. No. 20) is **GRANTED** and Plaintiff's Motion for Attorney's Fees under 42

U.S.C. § 406(b) (Doc. No. 25) is **GRANTED**. Plaintiff's counsel shall refund the \$5,090.00 EAJA

fee to Plaintiff.

Signed: November 16, 2021

Robert J. Conrad, Jr.

United States District Judge

2